

AMENDMENT AND RESPONSE

Serial Number: 09/659,502

Filing Date: September 11, 2000

Title: AROMATHERAPEUTIC ENVIRONMENTAL SYSTEM

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REMARKS CONCERNING THE AMENDMENTS

The above amendments were made in an effort to more clearly define the present invention and to respond to issues raised in the Decision of the Board of Appeals.

The basis for the recitation of the new claims is found generally in the specification.. The meaning of the term "long chain aliphatic" used in the specification is well known in the art as shown in US Patents Nos. 7,163,786 (A Kodak Reference, the common assignee of the McCue Patent, 10-30 carbon atoms); 7,160,661 (16 or more carbon atoms); 7,148,265 (between 10 and 20 carbon atoms); 7,078,454 (In a discussion of the different ranges of classes of aliphatics, "long-chain aliphatics" are differentiated as between 12 and 72 carbon atoms); and the like. In other words, "long chain aliphatic" has a clear meaning in the art of "at least 10 carbon atoms.

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RESPONSE TO THE REJECTION

Claim 31 was rejected under 35 USC 102(b) as anticipated by US Patent No. 5,403,587

(McCue). McCue provides at least the following teachings that are no longer anticipatory of the claims as submitted:

- a) Maximum pH of 6.0 versus the pH of at least 6.5 in claim 31 and 38 and pH of 6.5-7.0 in claim 32.
- b) Maximum alcohol chain length of 6, versus long-chain aliphatic alcohols (chain lengths of at least 10) in claims 34, 35, 36, 27, 38 and 39.
- c) The use of Tween 20 complexing agent in claims 33 and 38.

It must be realized that although McCue makes some general statements about the efficacy of the disclosed compositions in general terms, the functionality of the lower carbon length alcohols (C1-C6) is described as important to the antimicrobial/disinfecting properties of the composition (note in Table IV that 50% of the antimicrobial activity comes from the very low carbon atom ethyl alcohol). It would therefore not be obvious to remove an ingredient or replace an ingredient that provides 50% of the total effectiveness of the composition.

Also, the pH range selected by McCue has an upper limit of 6.0 and the preferred range is much less, within the 2.5 – 3.9 range, so it would not be obvious to alter the designed pH range outside the scope of the disclosed range and extend further away from the preferred range.

There is no disclosure of long chain aliphatic alcohols in the alternative ingredients of McCue, so they are neither anticipated nor obvious.

There is no disclosure of the use of Tween20 complexing agent, so that composition is neither anticipated nor obvious from McCue/

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CONCLUSION

For the above reasons, all rejections have been traversed and there is no basis of record for considering any rejections of the claims remaining. Applicants would appreciate a telephone call from the examiner if any personal conference would be useful in addressing any remaining issues in this Application. The Examiner is invited to telephone Applicant's attorney at (952)832.9090 to facilitate prosecution of this application.

Respectfully submitted,

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By their Representatives,

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Date: 19 January 2007

By


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I hereby certify that this correspondence is being sent by facsimile to the US Patent and Trademark Office addressed to MAIL STOP: AF, Assistant Commissioner of Patents, PO BOX 1450, Alexandria, VA 22313-1450 on January 19, 2007.

Name

Signature

